

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KOLO, LLC,

Plaintiff,

-against-

1:07-cv-10653 (CM)

KATE'S PAPERIE, LTD.,

Defendant,

MEMO ENDORSED

**PLAINTIFF'S MOTION FOR EXTENSION OF TIME
TO RESPOND TO DEFENDANT'S MOTION TO STRIKE
PLAINTIFF'S THIRD AMENDED COMPLAINT**

The Plaintiff, KOLO, LLC, hereby respectfully moves for an extension of time to respond to the Defendant's Motion to Strike Plaintiff's Third Amended Complaint (Document No. 34). The plaintiff's time to respond to this motion is currently set for May 27, 2008. Plaintiff is hereby requesting that this time be extended for a period of thirty (30) days, up to and including June 26th, 2008, or until such other time as the Court deems just and proper.

In support of this Motion, the Plaintiff KOLO, LLC states:

1. This case involves a claim for money damages arising out of plaintiff's Kolo's occupancy of a section of retail space within a property located at 72 Spring Street in Soho. This property is leased by defendant Kate's Paperie.

2. There is currently pending in the Housing / Landlord-Tenant Part of the Civil Court of the State of New York another dispute arising out of Kolo's occupancy of 72 Spring Street Space. That matter is captioned Kate's Paperie v. Kolo Retail, LLC, and is pending under Index No. L&T 65730 NLT 2008 (hereinafter "the City Court action"). In that matter, Kate's Paperie (acting as plaintiff) is seeking to remove Kolo (named as a defendant) from the 72

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5/21/08 Good luck in ~~efforts~~ ¹ Application granted.
There will be no further ^{no extensions} ^{Colle} ^{mail}

Spring Street location.

3. During a recent trial call of the City Court action on Friday, May 15th, 2008, counsel for the parties engaged in extended settlement negotiations that encompassed resolving all disputes between Kolo LLC and Kate's Paperie, including the instant claim.

4. Although those negotiations were not successful, the parties have agreed to continue the negotiations, and have in fact agreed to appear before Judge Matthew Cooper of the Landlord-Tenant Court for further negotiations on Friday, May 23rd, 2008.

5. It is the intent of all parties that the negotiations between the parties will resolve all disputes, and will thereby render the response to the Defendant's Motion to Strike moot.

6. Plaintiff's response to the Defendant's Motion to Strike is due on May 27, 2008, the day immediately following the Memorial Day holiday.

7. This is the first time the Plaintiff has sought the relief requested herein.

8. Prior to filing this Motion, the undersigned called opposing counsel David Versfelt to seek his consent to the requested extension of time. Mr. Versfelt refused to consent, advising that his client is not willing to grant any extensions of time to the plaintiff.

9. The requested extension will affect existing deadlines and the trial docket by thirty (30) days.

WHEREFORE, Plaintiff KOLO, LLC respectfully moves this honorable court to grant extension of time for the Plaintiff to respond to the Defendant's Motion to Strike Plaintiff's Third Amended Complaint (Document No. 34), currently due May 27, 2008 for thirty (30) days, up to and including June 26th, 2008, or until such other time as the Court deems just and proper.

Respectfully submitted,

GOLDBERG SEGALLA, LLP

/s/ Brian T. Stapleton, Esq.

Brian T. Stapleton, Esq. (BS 5640)

Frank J. Ciano, Esq. (FC 4981)

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CERTIFICATE OF SERVICE

I hereby certify that on May 20th, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF system for filing. Notice of this filing was will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

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To: Hon. Justice Colleen McMahon
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cc: David Versfelt, Esq.
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Fax No: (212) 536-3901

From: Brian T. Stapleton, Esq.

Date: May 20, 2008

Comments: Please see attached for a courtesy copy of Plaintiff's Motion for Extension of Time to Respond regarding the below referenced matter. Thank You.

Matter: *Kolo, LLC v. Kate's Paperie, LTD.*
Case No.: 1:07-cv-10653 (CM)
Our File No.: 8983.0001

Number of Pages (including fax cover): 6

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